

Issue Paper Number 00-028



- ☐ Board Meeting
- ☐ Business Taxes Committee
- ☐ Customer Services and Administrative Efficiency Committee
- ☐ Legislative Committee
- ☒ Property Tax Committee
- ☐ Other

ASSESSORS' CONTRACTS FOR APPRAISAL WORK

I. Issue

Based on data collection results and the Board's directives, should the Board continue with the rulemaking process on proposed Rule 180, "*Regulation of Contracts for Appraisal Work*"?

II. Staff Recommendation

1. Postpone the rulemaking process pending adoption of the Board-sponsored legislation amending section 674.
2. While pursuing the Board-sponsored legislation, issue a Letter to Assessors which:
 - (a) Evaluates the data collected from the counties' responses to confidentiality issues under such contracts,
 - (b) Explains the data collected from the counties' responses to bidding procedures and fee issues under such contracts,
 - (c) Makes recommendations by way of follow-up (suggesting model contract provisions regarding confidentiality), and
 - (d) Informs assessors of the pending Board-sponsored legislation amending section 674.

III. Other Alternative(s) Considered

1. Proceed with the rulemaking process on proposed Rule 180, entitled *Regulation of Contracts for Appraisal Work*.
2. Terminate the rulemaking process entirely and rely on existing law.

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III. Background

The Request for Rulemaking

Pursuant to Government Code section 11340.6, the Construction Materials Association of California (CMAC) requested by petition that the Board adopt a regulation specifying the minimum requirements of a contract between the assessor and non-employee appraisal consultants. CMAC was concerned with two issues relating to consultant contracts, both of which the Board considered at its meeting on March 16, 2000:

1. The confidentiality of taxpayer records and information obtained or developed by appraisal consultants under such contracts; and
2. The structuring of the fees paid under such contracts if an appeal is filed by the taxpayer.

The Board's Directive and Data Collection Results

In response to the petition, the Board directed staff, as an initial step in the rule making process, to collect detailed data regarding such contracts and to answer specific questions regarding the Board's authority to adopt a rule and the necessity for a rule or, alternatively, a Letter to Assessors. The data collection was to be specifically related to the confidentiality of taxpayer information obtained by non-employee appraisers while under contract and the structure of the fees charged.

In cooperation with the California Assessors' Association, the Board staff sent detailed questionnaires to all 58 county assessors on May 5, 2000. Of the 58 counties that were sent questionnaires, 35 participated in the survey. The questionnaire consisted of 23 questions addressing matters regarding confidentiality language, control of property appraisal records, appeals resulting from appraisals under such contracts, and the fee structures. The attached Appendix A, *Summary of the Board's Directive on Data Collection for Consultants Performing Appraisal Work for County Assessors* provides the details of the data collected.

The general results of the survey indicate the following conclusions in the two areas directed by the Board i.e. confidentiality and fee structure. The information and conclusions set forth below are based upon the information from the 35 assessors who participated in the survey. Of these, 20 indicated that they currently contract or have contracted with non-employee appraisers in the past.

Confidentiality

- (1) In general, the survey disclosed that the majority of counties that engaged non-employee appraisers include confidentiality clauses in their contracts (approximately 93%). Based on the survey results, the contracts between assessors and non-employee appraisers provide adequate language to ensure that taxpayer information obtained by these non-employee appraisers is "held secret".

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- (2) The survey disclosed that all counties that engage non-employee appraisers allow taxpayer information to be removed from the assessor's office and less than half of the counties retain all appraisal data. Based on the survey results, the range of enforcement and control mechanisms to ensure that taxpayer information and appraisal records are actually "held secret" by non-employee appraisers varies widely.

Fee Structure

- (1) Approximately 48% of the assessors contracting for appraisal services put their contracts out for competitive bid and approximately 31% of the assessors use contracts with successive renewal options. The data indicate that some of the counties may not fully comply with Revenue and Taxation Code section 674 in regard to the bidding process.
- (2) Of the counties that currently contract non-employee appraisers, approximately 53% of their contracts provide for additional fees for work performed to defend the appraisal at appeal hearings and approximately 63% provide a flat fee for both the appraisal work and the defense of the value on appeal (if any). The data would seem to indicate that there is a potential for a problem. However, whether or not any abuses occur could not be determined from the data collected. In fact, some of the data may tend to discredit this incentive theory (see section (4) page 6). The results from appeals of such appraisals indicate that while there may be a perception that assessments produced by non-employee appraisers carry an upward bias, the data are contrary and indicate that there may be a downward value bias. Note that these results are based only on the 1997 data, as most of the 1998 and 1999 appeals are outstanding or have been withdrawn.

In addition, the staff obtained approximately 16 assessors' contracts and examined their provisions in regard to their confidentiality and fee structure. (Table 2 of Appendix A) The majority of contracts examined contained a confidentiality requirement in some form, as well as a prohibition against any conflict of interest. Further discussion of the contract language is detailed in questions 3 and 4 below.

Additional Issues Raised by the Board

Following are the four related questions the Board directed staff to address in detail.

- (1) Does the Board have authority to regulate the contractual arrangement between assessors and non-employee appraisers in regard to the fee structure?
- (2) Does the Board have authority to regulate the contractual arrangement between assessors and non-employee appraisers in regard to the confidentiality of the taxpayer information obtained by the appraisers?
- (3) Do the contracts between assessors and non-employee appraisers contain confidentiality provisions on par with the statutory confidentiality requirements imposed on assessors?
- (4) Does the data indicate that the current statutory process (requiring at least two bids and a fixed fee or an hourly fee with a cap) is being misapplied by the assessors authorizing added compensation in the event of a taxpayer appeal?

The answers to these questions are discussed below.

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(1) Does the Board have authority to regulate the contracts between assessors and non-employee appraisers in regard to the fee structure?

Yes.

Under Government Code section 15606, subdivision (c), the Board has authority to prescribe rules and regulations governing local boards of equalization when equalizing and assessors when assessing. While 15606 does not grant specific authority to the Board to promulgate rules governing fee appraisal contracts, staff is of the opinion that the general authority of subdivision (c) to “govern assessors when assessing” is broad enough to encompass any appraisal issue governed by the Revenue and Taxation Code during the assessors’ performance of their duties. Non-employee appraisers have no independent status to assess property for counties, but are authorized to perform appraisal services for the assessor by contract. They derive all local assessment authority by delegation from the assessor, and for purposes of property tax law are part of the assessor’s staff and subject to the same requirements and restrictions as assessors and their staff. Thus, a regulation governing the fee structure is “reasonably necessary to effectuate the purpose” of Revenue and Taxation Code section 674, within the meaning of Government Code section 11342.2. Further, such regulation would be considered necessary in order to implement, interpret and make specific section 674, which is a portion of the laws enforced or administered by the Board.

The standards prescribed in Revenue and Taxation Code section 674, enacted in 1988 by AB 2717 (Klehs), mandate that all assessors’ contracts for the performance of appraisal work (by individuals who are not employees of the state, the county or the city), shall be entered into only after at least two competitive bids and agreement on a fixed fee or an hourly rate with a maximum dollar cap. Although section 674 does not address or prescribe any confidentiality standards for such contracts, it does address fees. A Board rule interpreting the bid and fee provisions under section 674, therefore, is within the scope of authority conferred by the above Government Code sections.

(2) Does the Board have authority to regulate contracts between assessors and non-employee appraisers in regard to the confidentiality of taxpayer information obtained by the appraisers?

Yes; however, it is preferable to have specific statutory provisions.

The general confidentiality standard for assessors is found in Revenue and Taxation Code section 408. It provides that any information and records in the assessor’s office that are not required by law to be kept or are prepared by the assessor, and homeowners’ exemption claims, are not open to public inspection. Section 408 and certain other statutes provide exceptions to this general rule of confidentiality. Sections 451 and 481 also provide that all information requested by the assessor or furnished in the property statement or change in ownership statement shall be “held secret” by the assessor. Any information and records requested from an assessee by the assessor or any additional information or records submitted to the assessor in conjunction with an appraisal are subject to these confidentiality requirements.

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Non-employee appraisers conducting appraisals for property tax purposes pursuant to contracts with the county assessor derive their local assessment authority from the assessor and are, therefore, subject to the same confidentiality requirements of the Revenue and Taxation Code as assessors. Among these requirements are sections 408, 451 and 481. Since Government Code section 15606 subdivision (c) grants authority to the Board to govern assessors when assessing, that authority extends to non-employee appraisers acting on behalf of the assessor. Admittedly, enforcement difficulties could arise however, since there are no sanctions or penalties for violation in any of these confidentiality statutes (except for civil damages for the malperformance of official duties in Government Code sections 1504-1505 and sanctions resulting in removal from office in Government Code sections 3060-3704).

The Board is sponsoring legislation to specifically require any contractor to maintain the confidentiality of assessee information and records obtained in the performance of a contract, in accordance with sections 408, 451 and 481. This legislation also includes a criminal (misdemeanor) penalty for any violation. While staff believes the Board has authority to promulgate rules under existing law, to avoid any question on the subject and to allow for proper enforcement, it would be preferable to have specific statutory provisions relating to confidentiality.

(3) Do the contracts between assessors and non-employee appraisers contain confidentiality provisions on par with the statutory requirements imposed on assessors?

Generally, yes.

Based on the fact that the vast majority of the contracts reviewed include confidentiality provisions among their terms, it appears that assessors are attempting to enforce compliance by non-employee appraisers with the confidentiality requirements of sections 408, 451, and 481. In 15 out of 16 counties answering the question on this, the contracts contained confidentiality clauses. (See Table 1 of Appendix A.) In reviewing the contents of the contracts, the confidentiality clauses required, for example, that the contractor comply with the provisions of section 408, and/or not release or disclose any materials under the contract without the county's prior written approval, and/or deliver all documents, data and information developed by the non-employee appraiser to the county assessor on or before the termination of the contract.

Analysis of the contracts also indicates, however, that the standards in the confidentiality clauses vary, in that 10 out of 16 counties do not require the assessor to have possession of all records pertaining to the appraisal, and not all contracts reference section 408. If the Board-sponsored legislation is adopted, these inconsistencies will be resolved, since it would require the non-employee appraiser to purge and return to the assessor any assessee records within 90 days of the conclusion, termination or non-renewal of the contract. The non-employee appraiser would be required to provide the assessor a written declaration under penalty of perjury that the contractor has complied with the provisions of the statute. A subsequent Board rule (authorized by the legislation) would further promote the goal of statewide uniformity, by interpreting the statutory provisions, and by requiring all county contracts with non-employee appraisers to include the express language prescribed by the Board in their confidentiality clauses.

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(4) Do the data indicate that the current statutory process regarding fees is being misapplied - by assessors authorizing added compensation in the event of taxpayer appeals?

Inconclusive.

Slightly more than half (10) of the counties responding to the question on this stated that the non-employee appraisers included the fee for defending the valuation in the event of an appeal, and fewer than half (6) stated that they did not. In regard to contracts which provided for “auxiliary” fees that can go above the annual fee or cap, half (8) responded “yes” and half (7) responded “no.” The types of items that were typically not covered by the contract fee were representation before an appeals board that exceeded the hourly cap (e.g., the fee included a maximum of 40 hours for an appeal) and services or extra time outside the contract duties. In the 16 contracts examined, all required the contractor to submit a claim to the county for extra fees in the event that the contractor provided services or time outside the contract specifications.

Based on the data collected, it does not appear that the statutory process as a whole is being disregarded or misapplied. During the debate on AB 2717 in 1988, the proponents of the bill argued that the then current approach to hiring non-employee appraisers created an abuse, in the form of an inherent bias toward high appraisals and the likelihood of an appeal by the taxpayer. They argued that a high appraisal is more likely to be appealed by the taxpayer, which in turn results in another contract and fee for the non-employee appraiser. In their view, the bill would produce a more “even-handed appraisal process.” Opponents argued that the bill would “overshoot its intent,” since it required every contract to specify a maximum fee, which included the appraisers’ services during a possible appeal. Opponents argued that it would either (1) result in a downward bias - underestimating values in order to reduce the likelihood of an appeal not included in the fee, or (2) result in an upward bias - by inflating the contract fee in order to “cover” the possibility of an appeal.

The survey results are inconclusive as to an upward or downward bias. The 1997 percentages of appeals resolved by stipulations, or heard by an Assessment Appeals Board (AAB) that resulted in the assessment being reduced, sustained, or increased was compared to the same statewide percentages of all property in order to determine if there was an upward or downward value bias. The comparison indicated that there was no significant upward value bias; 33.21% of the total statewide appeals were resolved by the use of stipulated or reduced values compared to 36.50% of the non-employee appraiser appeals that were resolved by stipulation or AAB reduced values. However, the comparison indicates that a greater proportion of appeals filed against non-employee appraisers result in assessments being sustained or increased by AAB's (2.33% of total statewide appeals were resolved by values being sustained or increased versus 26.81% of non-employee appraiser appeals being resolved by use of sustained or increased values). There may be the perception that assessments produced by non-employee appraisers carry an upward bias. The results, however, are contrary and indicate that there may be a downward value bias. Please note that these results are based only on the 1997 data, as most of the 1998 and 1999 appeals are outstanding or have been withdrawn.

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V. Staff Recommendation

Staff recommends that the Board postpone the rulemaking process pending adoption of the Board-sponsored legislation amending section 674. Staff further recommends that, pending the outcome of the Board-sponsored legislation, the Board should issue a Letter to Assessors (LTA) describing the data collection results, recommending model contract provisions, and discussing the legislation as a follow up to these results.

A. Description of the Staff Recommendation

Issue a Letter to Assessors which (a) evaluates the data collected from the counties' responses to confidentiality issues under such contracts, (b) explains the data collected from the counties' responses to bidding procedures and fee issues under such contracts, (c) makes recommendations by way of follow-up (suggesting model contract provisions regarding confidentiality), and (d) informs assessors of the pending Board-sponsored legislation amending section 674.

B. Pros of the Staff Recommendation

- Immediate problems relating to the use of confidential information and fees will be identified through a description of the data results in a Letter to Assessors. Recommended “model provisions” for such contracts would serve to promote uniformity.
- Interested parties will have the time and opportunity to comment on the survey results, the problems identified, and suggested solutions, prior to resumption of rulemaking process.
- Some of the problems identified may be resolved over the intervening time period, resulting in a more definitive or limited scope for drafting a rule.
- The Board-sponsored legislation not a rule, is the most effective mechanism for enforcement of confidentiality on non-employee appraisers.
- A Board rule may (or may not) be necessary to implement the Board-sponsored legislation.

C. Cons of the Staff Recommendation

- The Board-sponsored legislation may not be enacted. To postpone the adoption of a Board rule is unwise, since it would be an expedient solution to identified problems.
- LTAs are merely advisory in nature, and in contrast to a rule, any guidance provided would not be subject to enforcement by the Board.
- Postponing the promulgation of a rule would delay the Board’s ability to pursue a uniform interpretation of the current language in section 674 and in sections 408, 451, and 481, whether or not the Board-sponsored legislation is adopted.

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D. Statutory or Regulatory Change

- Staff is recommending postponing adoption of a new property tax rule, and issuing a Letter to Assessors pending the adoption of the Board-sponsored legislation.
- Staff recommends the Letter to Assessors should effectively communicate the survey results, make recommendations concerning contract provisions, and inform assessors of the pending Board-sponsored legislation.

E. Administrative Impact

Minimal. The issuance of a letter to assessors will require some expenditure of staff time and mailing. Rulemaking will be postponed.

F. Fiscal Impact

1. Cost Impact

The Letter to Assessors procedures requires some expenditure of staff time within the current budget.

2. Revenue Impact

None.

G. Taxpayer/Customer Impact

Issuing a Letter to Assessors on the bidding procedures, fee structures and confidentiality practices of non-employee appraisers will benefit assessors, non-employee appraisers and taxpayers by informing them of current and preferred practices, and pointing out problems.

H. Critical Time Frames

The Government Code section pertaining to petitions for adoption of regulations provides for a response by the Board within 30 days of receipt of the petition. The petitioners have waived the 30 day requirement. The Board may delay or postpone the rulemaking process and reschedule consideration of a draft regulation following the enactment of the Board-sponsored legislation.

The lien date is January 1 for the next fiscal year July 1 through June 30. Non-employee appraisers gather taxpayer information from the lien date until some time in June. If enacted this year, the legislation requiring confidentiality will be in effect before the 2001 assessment year.

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VI. Alternative 1

A. Description of the Alternative

Proceed with the rulemaking process on proposed Rule 180, *Regulation of Contracts for Appraisal Work*, and draft language based on survey results, without waiting for adoption of proposed legislation.

B. Pros of the Alternative

- Mandates that existing requirements of Revenue and Taxation Code section 674 and sections 408, 451, and 481 apply to non-employee appraisers.
- Makes it clear that a contractor has no authority independent of the assessor under section 408 to disclose confidential information.
- Protects confidentiality of information by providing for mandatory provisions in all contracts between assessors and non-employee appraisers before assessors' records can be disclosed.
- Could require the return of confidential information to the assessor and the removal from electronic or other files of all taxpayer information gathered by the contractor.
- Could limit fees for additional work by non-employee appraisers in defending assessments in an appeal.

C. Cons of the Alternative

- Without enabling legislation, any proposed language regarding confidentiality could be subject to question.
- The authority of the Board to regulate confidentiality through the rulemaking process under section 674 is open to question, since that section only addresses bids and fees.
- Once adopted, a Board rule requiring confidentiality by non-employee appraisers without statutory authorization, has limited effectiveness, in that no criminal penalty would result from its violation.
- The adoption of a rule before enactment of the legislation is untimely, possibly resulting in duplicative work and inefficiency. If the legislation passes, another Board rule would be desirable on the same subject matter.

D. Statutory or Regulatory Change

Action by the Board on proposed Rule 180 will require the staff to draft new language based on the data results and submit it to the Board for authorization to publish in Title 18 of the California Code of Regulations.

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E. Administrative Impact

Minimal. The rulemaking procedures require some expenditure of staff time. The administrative impact of a requirement to follow the rule and to write confidentiality and fee protections into consulting contracts falls primarily on the assessors and county counsels who negotiate and contract with the non-employee appraisers. The cost should be minor.

F. Fiscal Impact

1. Cost Impact

The rulemaking procedures require some expenditure of staff time within the current budget.

2. Revenue Impact

None.

G. Taxpayer/Customer Impact

Taxpayers/Customers would be benefited by the newly added confidentiality provisions of the regulation, if they are enforceable.

H. Critical Time Frames

The Government Code section pertaining to petitions for adoption of regulations provides for a response by the Board within 30 days of receipt of the petition. The petitioners have waived the 30 day requirement so the matter may be brought to the Board for consideration in accordance with its adopted Board meeting calendar.

The lien date is January 1 for the next fiscal year July 1 through June 30. Consultants gather taxpayer information from the lien date until some time in June. The rule could be in effect before the 2001 assessment year.

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VI. Alternative 2

A. Description of Alternative 2

Terminate the rulemaking process entirely and rely on existing law, or proposed legislation if adopted.

B. Pros of the Alternative

- This approach has the advantage of simplicity and avoids any concerns over the Board's authority to regulate.
- This approach is logical, given the fact that there is no pressing need for action. The data collected indicate that there are no pervasive or serious problems manifesting disregard for taxpayer confidentiality or misapplication of bidding and fee provisions under most contracts.
- If the legislation is adopted, any taxpayer concerns about confidentiality will be resolved.
- Assessors and non-employee appraisers in counties where appraisal contracts are about to be renewed or drafted could benefit from no regulatory changes and no interference in their negotiations if the Board does not act.
- Lack of regulatory constraints on the bidding procedures and fees generally promotes greater flexibility for negotiating the cost of services, resulting in lower fees.

C. Cons of the Alternative

- Any problems related to the use of confidential information could remain unresolved.
- Current law is weak and the Board-sponsored legislation may not be enacted.
- If the Board-sponsored legislation is passed, a Board rule may be necessary for the implementation of its confidentiality requirements (prescribing the language for confidentiality provisions in contracts).
- Lack of information by means of a letter to assessors leaves assessors and other interested parties uninformed about any problems regarding confidentiality, bidding procedures and fees generally.

D. Statutory or Regulatory Change

None.

E. Administrative Impact

None.

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F. Fiscal Impact

1. Cost Impact

None.

2. Revenue Impact

None.

F. Taxpayer/Customer Impact

Minimal. Issues and/or problems identified in survey results would continue unaddressed.

H. Critical Time Frames

None.

Prepared by: Legal Division, Property Taxes Section
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Current as of: July 12, 2000

Appendix A

SUMMARY OF BOARD'S DIRECTIVE ON DATA COLLECTION FOR CONSULTANTS PERFORMING APPRAISAL WORK FOR COUNTY ASSESSORS

The Board, at its March 16, 2000 meeting, directed staff to collect data regarding assessors contracting non-employee appraisal consultants to perform some of their assessment functions. With the cooperation of the California Assessors Association, staff sent questionnaires to all 58 county assessors. Of the 58 counties in California, 35 participated in the survey. The questionnaire consisted of 23 questions that addressed confidential taxpayer information, control of records, appeals, and fee structures. Additionally, staff obtained and analyzed 16 contracts between assessors and contract appraisers. The results of the survey and contract analysis are included in Appendix A as Table 1 and Table 2, respectively. Following are the questions asked by the Board and staff's findings for each.

- 1) **Q:** Do the contracts between assessors and non-employee appraisers contain confidentiality provisions on par with the statutory requirements imposed on assessors?

A: Generally yes. See page 5 of the issue paper for details.

- 2) **Q:** Does the data indicate that the current statutory process (requiring at least two bids and a fixed fee or hourly fee with a cap) is being abused by the assessors authorizing added compensation in the event of a taxpayer appeal?

A: Inconclusive. See page 6 of the issue paper for details.

- 3) **Q:** Of the properties appraised by private appraisal consultants, how many resulted in assessment appeals throughout the state?

A: 1999 (196/1362 or 14.39%), 1998 (56/1307 or 4.28%), 1997 (273/1447 or 18.87%).

- 4) **Q:** Of the properties appraised by private appraisal consultants, how many assessment appeals are from mining and mineral companies?

A: 1999 (24/1362 or 1.76%), 1998 (0 or 0%), 1997 (1/1447 or .07%)

- 5) **Q:** Once there is an appeal, how many are sustained for the assessor?

A: 1999 (1/241 or .41%), 1998 (3/99 or 3.03%), 1997 (65/276 or 23.55%)¹

¹ The 1999 and 1998 results are not good indicators because a significant number of the appeals filed in these years are currently outstanding. Of the 276 appeals filed in 1997, assessors reported that 274 were resolved and that 2 remain outstanding.

To put the data in perspective, the 1997 percentage of appeals resolved by the Assessment Appeals Board (AAB) sustaining the assessed value was compared to the same statewide percentage. (23.72% non-employee versus 1.82% statewide)

- 6) **Q:** Once there is an appeal, how many of the assessor's values are overturned by the Assessments Appeals Board?

A: 1999 (0 or 0%), 1998 (0 or 0%), 1997 (54/276 or 19.57%)¹

To put the data in perspective, the 1997 percentage of appeals resolved by the AAB overturning the assessed value was compared to the same statewide percentage. (20.07% non-employee versus 9.66% statewide)

- 7) **Q:** Once there is an appeal, how many of the assessor's values are reduced by the Assessment Appeals Board?

A: 1999 (0 or 0%), 1998 (0 or 0%), 1997 (46/276 or 16.67%)¹

To put the data in perspective, the 1997 percentage of appeals resolved by the AAB reducing the assessed value was compared to the same statewide percentage. (16.79% non-employee versus 9.15% statewide)

- 8) **Q:** Once there is an appeal, how many of assessor's values are increased by the Assessment Appeals Board?

A: 1999 (0 or 0%), 1998 (0 or 0%), 1997 (9/276 or 3.26%)¹

To put the data in perspective, the 1997 percentage of appeals resolved by the AAB increasing the assessed value was compared to the same statewide percentage. (3.28% non-employee assessment versus .51% statewide)

- 9) **Q:** Once there is an appeal, how many result in a reduction in value due to the assessor coming in with a revised appraisal?

A: 1999 (6/241 or 2.49%), 1998 (3/99 or 3.03%), 1997 (54/276 or 19.56%)¹

- 10) **Q:** Do assessors use appraisal consultants outside of the natural resources realm?

A: Yes. One county used appraisal consultants to value a newspaper plant and another county used appraisal consultants for cable TV, retail properties and apartments.

- 11) **Q:** Of the appeals filed, how many resulted in court cases?

A: None of the 616 appeals filed in 1997, 1998, & 1999 resulted in court cases.

**Appendix A, Table 1
RESULTS OF QUESTIONNAIRE**

Fees	Yes	No	Responses*
Counties that have contracted independent appraisers	20	15	35
Counties that put their contracts out for competitive bid	14	15	29
Counties that have contracts that provide for "auxiliary" fees	8	7	15
Counties that have contracts with successive renewal options	5	11	16
Counties that have contracts that include defending value in fee	10	6	16
Confidentiality			
Counties with contracts that contain "conflict of interest" language	13	3	16
Counties with contracts that contain standard confidentiality clauses	15	1	16
Counties that retain possession of all records relating to the appraisal	7	10	17
Counties that allow contract appraisers to take taxpayer information out of the assessor's office	16	0	16

Number of Contracts** & Properties Contracted	1999 11 Counties		1998 11 Counties		1997 12 Counties	
Property Type	Contracts	Properties	Contracts	Properties	Contracts	Properties
Petroleum	9	1258	9	1268	10	1344
Geothermal	1	1				
Sand & Gravel	4	92	4	37	4	37
Other Minerals	1	8				
Power Plants	1	1				
Refineries						
Other	2	2	2	2	11	66
Total	16	1362	14	1307	24	1447

Number of Appeals & Properties Appealed	1999 9 Counties		1998 6 Counties		1997 8 Counties	
Property Type	Appeals	Properties	Appeals	Properties	Appeals	Properties
Petroleum	213	167	97	54	209	206
Geothermal	1	1				
Sand & Gravel	22	17			1	1
Other Minerals	2	8				
Power Plants	1	1				
Refineries						
Other	2	2	2	2	66	66
Total	241	196	99	56	276	273

Appendix A, Table 1 (continued)

Appeals Filed in 1999	Value				Appeals	
Property Type	Sustained	Reduced	Increased	Stipulated	Withdrawn	Outstanding
Petroleum				6	119	88
Geothermal						1
Sand & Gravel	1				6	15
Other Minerals						2
Power Plants						1
Refineries						
Other						2
Total	1			6	125	109

Appeals Filed in 1998	Value				Appeals	
Property Type	Sustained	Reduced	Increased	Stipulated	Withdrawn	Outstanding
Petroleum	3			3	53	38
Geothermal						
Sand & Gravel						
Other Minerals						
Power Plants						
Refineries						
Other						2
Total	3			3	53	40

Appeals Filed in 1997	Value				Appeals	
Property Type	Sustained	Reduced	Increased	Stipulated	Withdrawn	Outstanding
Petroleum	40	31	8	28	100	2
Geothermal						
Sand & Gravel				1		
Other Minerals						
Power Plants						
Refineries						
Other	25	15	1	25		
Total	65	46	9	54	100	2

* Please note that not all counties responded to all questions in the questionnaire. Some counties did not answer many of the questions because they have never used non-employee appraisers or have not engaged non-employee appraisers recently. Thus, the total number of responses is often different from question to question.

** Assessors indicated that 2 contracts in 1999 and 1 contract in 1998 provided for services for multiple property types.

Appendix A, Table 2
ANALYSIS OF CONTRACTS*

Fees	Yes	No
Contracts that provide for "auxiliary" fees	12	1
Contracts with successive renewal options	8	5
Counties that include defending value in fee	9	4
Confidentiality		
Contracts that contain "conflict of interest" language	12	1
Contracts that contain standard confidentiality clauses	13	0
Contracts that provide that the county assessor retains possession of all records relating to the appraisal	1	12
Contracts that allow contract appraisers to take taxpayer information out of the assessor's office	12	1

* There is no correlation between the contracts analyzed and the responses to the questionnaire. Of the 16 contracts analyzed, 3 contracts were between assessors and non-employee appraisers for assessment appeal work only and 13 contracts were between assessors and non-employee appraisers for valuation services. The data contained in this table is from the 13 contracts for valuation services. The contracts for assessment appeal representation are not included in this table.



ASSESSORS' CONTRACTS FOR APPRAISAL WORK

Staff Recommendation

1. Postpone the rulemaking process pending adoption of the Board-sponsored legislation amending Section 674.
2. Issue a Letter to Assessors which (a) evaluates the data collected from the counties' responses to confidentiality issues under such contracts, (Appendix A, *Summary of Board's Directive on Data Collection for Consultants Performing Appraisal Work for County Assessors*, attached) (b) explains the data collected from the counties' responses to the bidding procedures and fee issues under such contracts (Appendix A), (c) makes recommendations by way of follow-up (suggesting model contract provisions regarding confidentiality), and (d) informs assessors of the pending Board-sponsored legislation.

Alternative 1

Proceed with the rulemaking process on proposed Rule 180, entitled *Regulation of Contracts for Appraisal Work*, and draft language based on data results.

Alternative 2

Terminate the rulemaking process entirely and rely on existing law.

Background, Methodology, and Assumptions

Staff Recommendation:

There is nothing in the staff recommendation that would impact revenues.

Alternative 1:

Alternative 1 would have no revenue impact.

Alternative 2:

Alternative 2 would have no revenue impact.

Revenue Summary

Staff Recommendation:

The staff recommendation has no revenue effect.

Alternative 1:

Alternative 2 has no revenue impact.

Alternative 2:

Alternative 2 has no revenue impact.

Preparation

This revenue estimate was prepared by David E. Hayes, Statistics Section, Agency Planning and Research Division. This revenue estimate was reviewed by Ms. Laurie Frost, Chief, Agency Planning and Research Division and Mr. Richard Johnson, Deputy Director, Property Tax Department. For additional information, please contact Mr. Hayes at (916) 445-0840.

Current as of June 28, 2000